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| 10/644,541      | 08/20/2003  | Arthur Kaliski       |                     | 6540             |

7590 11/16/2004  
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EXAMINER

VERDIER, CHRISTOPHER M

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3745

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/644,541

Applicant(s)

KALISKI, ARTHUR

Examiner

Christopher Verdier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8-20-03, 9-25-03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6-17-2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

*Specification*

The abstract of the disclosure is objected to because in line 9, "cups" should be changed to -- cup --, and because in line 10, "breaking" should be changed to -- braking --. Correction is required. See MPEP § 608.01(b).

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 1, line 2, which recites "at least two cups" has no antecedent basis in the specification.

The disclosure is objected to because it is replete with clerical and grammatical errors too numerous to mention in every single instance. The following are several examples of defects. The specification should be carefully proofread for additional defects. Appropriate correction is required.

On page 2, line 1, "Title of the Invention" is superfluous and should be deleted.

On page 3, line 12, "through out" should be changed to -- throughout --.

On page 5, line 7, "refereed" should be changed to -- referred --.

On page 7, line 8, "close" should be changed to -- closed --.

On page 9, line 1, "Objections" should be changed to -- Objects --.

On page 9, last line, "nose" should be changed to -- noise --.

On page 10, line 18, "breaking" should be changed to -- braking --.

On page 15, line 4, "breaking" should be changed to -- braking --.

On page 15, lines 4 and 5, "break" should be changed to -- brake --.

### *Claim Objections*

Claims 1-6 are objected to because of the following informalities: Appropriate correction is required.

In claim 1, line 6, "shafts" should be changed to -- shaft --.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, line 2 recites "at least two cups", while claim 1, lines 3-4 and 6-7 recite that the cups, when rotated into an open orientation, form an s-shaped rotor. In the case of more than two cups, i.e. three, four, five, etc. cups, the rotor shape would no longer be s-shaped when in the open orientation. Claims 1-6 are therefore inaccurate when there are more than two cups. It is suggested that in claim 1, line 2, "at least" be deleted in order to correct this. Claim 1, line 8 recites "at least one end plate", while claim 1, lines 9 and 10 refer to "said end plates". It is therefore unclear if applicant intends to claim a single end plate, or plural end plates. It is suggested that in claim 1, line 8, "at least one end plate is attached to the end of said cup shafts" be changed to -- an end plate attached to each end of the cup shafts -- in order to correct this.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, as far as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Riezinstein 4,718,822 in view of Soules 4,004,861. Riezinstein discloses a self regulating rotor substantially as claimed, including two cups 48 that are each pivotally attached about a central axis 22 such that they form a three dimensional shape when closed, and when rotated into an open orientation form an s-shaped rotor, when viewed as a horizontal cross section, a cup shaft 12 attached to each cup such that the cups can rotate from a closed shape to an open s-shaped rotor, with an end plate 8, 10 attached to the ends of the cup shafts, wherein the cup shafts are pivotally supported by the end plates, a rotational energy connecting element 56 attached to the cup shafts, for controlling simultaneous rotation of the cup shafts; and a rotational speed sensor 62, 64, 68 connected to the rotational energy connecting element for sensing the speed of rotation of a central shaft and for activating the rotational energy connecting element to rotate the cup shafts in response to changes in the sensed speed of rotation of the central shaft. Springs 66 are broadly considered to be a rotor clutch element attached to the rotor, in that they use the rotational energy of the rotating rotor when it is slowing down to close the cups into a closed shape. The rotor has an adjustable diameter because it moves from a closed position to an open position.

However, Riezinstein does not disclose a central shaft connecting the end plates on the central axis (claim 1), and does not disclose a housing enclosing the rotor, with the housing having intake and output openings (claim 3), with the central shaft being hollow (claim 5).

Soules 4,004,861 shows a wind mover rotor having a hollow central shaft 12 that connects end plates 10, 11 on a central axis, which carries vanes 19-24 therebetween, for the purpose of securely supporting the rotor and reducing weight by virtue of the hollow shaft. The wind mover is located in a housing 25, 26 that encloses the rotor, with the housing having intake and output openings formed between posts 27, for the purpose of providing a secure mounting arrangement for the rotor and allowing wind to enter and exit the rotor.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to form the rotor of Riezinstein such that a hollow central shaft connects the end plates on the central axis, as taught by Soules, for the purpose of securely supporting the rotor and reducing weight by virtue of the hollow shaft, and to form the rotor of Riezinstein such that it includes a housing enclosing the rotor, with the housing having intake and output openings, as taught by Soules, for the purpose of providing a secure mounting arrangement for the rotor and allowing wind to enter and exit the rotor.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Riezinstein 4,718,822 and Soules 4,004,861 as applied to claim 1 above, and further in view of Cleveland

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2,007,963. The modified rotor of Riezinstein shows all of the claimed subject matter except for a braking device attached to the rotor for slowing the rotor.

Cleveland shows a fluid turbine rotor 10 having a braking device 31 attached to a rotor shaft 15, for the purpose of slowing rotation of the rotor.

It would have been further obvious at the time the invention was made to a person having ordinary skill in the art to form the modified rotor of Riezinstein such it includes a braking device attached to the rotor, as taught by Cleveland, for the purpose of slowing rotation of the rotor.

#### ***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Urfer and Rusconi are cited to show wind turbines with vanes moved by a centrifugal governor.

"Wind Energy Systems" is cited to show a Savonius rotor enclosed in a housing.

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*Allowable Subject Matter*

Claim 1 would be allowable if claim 1 is amended to recite that the rotational energy connecting element is a timing belt connected to the cup shafts, and if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

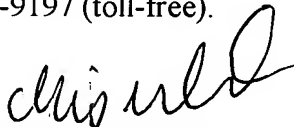
Claims 2-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Verdier whose telephone number is (703)-308-2638. The examiner can normally be reached on Monday-Friday from 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward K. Look can be reached on (703) 308-1044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C.V.  
November 13, 2004

  
Christopher Verdier  
Primary Examiner  
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